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June 27, 2022

The request is granted. So ordered.

/s/ Alvin K. Hellerstein

June 27, 2022

Via ECF

Hon. Alvin K. Hellerstein
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *SpeedFit LLC et al v. Woodway USA, Inc. et al*; Case No. 1:22-
cv-04733-AKH -- Request to File Certain Exhibits Under Seal

Dear Judge Hellerstein:

We represent Woodway USA, Inc. (“Woodway”) and Douglas Bayerlein (collectively “Defendants”) in the above-referenced matter. Pursuant to Rule 4.B of Your Honor’s Individual Rules and the June 17, 2022 Order (ECF No.14), Defendants respectfully submit this revised letter request to file a redacted version of Exhibit A to the Declaration of Nicole M. Marschean, Esq. In Support of Defendants’ Motion to Dismiss Plaintiffs’ Verified Complaint (ECF No. 10-1).

Defendants acknowledge that the public generally has an interest in judicial proceedings and that under the law there is a “presumption of access” to judicial documents. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). However, when the privacy interests of parties (or other “countervailing factors”) outweigh the public’s general interest, this presumption can be overcome. *Id.* at 120.¹ If there is “good cause” to depart from the presumption – i.e., a clearly defined and serious injury could result from disclosure – the document may be sealed. *Standard Inv. Chartered, Inc. v. Nat’l Ass’n of Sec. Dealers, Inc.*, No. 07 Civ. 2014 (SWK), 2008 U.S. Dist. LEXIS 4617, at *6-10 (S.D.N.Y. Jan. 22, 2008); *ITT Indus., Inc. v. Rayonier, Inc.*, No. 05 Civ. 4322 (CLB), 2005 U.S. Dist. LEXIS 49821, at *6 n.4 (S.D.N.Y. July 20, 2005) (even when the court sees no need for secrecy, “the wishes of the parties are entitled to some consideration”).

Here, the material for which Defendants seek protection is the confidential Settlement Agreement between the Parties, which is the subject of the instant action. The Settlement Agreement, (Exhibit A to the Marschean Declaration), is branded “CONFIDENTIAL.” The proposed redactions include certain terms of the Settlement Agreement that require confidentiality because public

¹ The Second Circuit employs a three-step test in these cases, determining (1) whether the at-issue material is actually a judicial document – i.e., an “item ... relevant to the performance of the judicial function and useful in the judicial process” – so that the presumption applies; (2) if the material is a judicial document, the role the material plays in the court’s exercise of its judicial powers and the value of such information to those monitoring the federal courts; and (3) whether the presumption of access outweighs any countervailing factors, such as “the privacy interests of those resisting disclosure.” *Lugosch*, 435 F.3d at 119-20 (internal citations omitted).

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disclosure of these terms will be competitively harmful to Defendants. These proposed redactions include proprietary information and confidential financial information.

The chart below sets forth the specific material for which Defendants request redactions, identified by the category of protected information.

EXHIBITS SUBJECT TO SEALING REQUEST	
EXHIBIT	TYPE OF MATERIAL TO BE PROTECTED
Exhibit A to Declaration of Nicole M. Marschean, Esq. in Support of Defendants' Motion to Dismiss (Redacted)	Document is designated as "Confidential" by the Parties and includes proprietary business information that would cause competitive harm to the Parties were it to be publically disclosed

Accordingly, Defendants respectfully request that this Court so order the sealing of the information described herein. Pursuant to Your Honor's Rules, Defendants will contemporaneously file Exhibit A to the Marschean Declaration with proposed redactions highlighted in yellow.

Respectfully submitted,

/s/ Nicole M. Marschean

Nicole M. Marschean